IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

–

WRIT PETITION NO : 12043 of 2005

Between:

Indlamudi Nageswara Rao, S/o Appaiah, Hindu,
R/o Kunkalamarru Village, Karamchedu Mandal, Prakasam District.

..... PETITIONER

AND

1. The Regional Joint Commissioner, A.P. Hindu Charitable

& Religious Endowment Department,
Tirupathi, Chittoor District.
2 Assistant Commissioner of Endowments, Endowments

Department, Ongole, Prakasam District.
3 Sri Chennakesava Swamy Temple, Kunkalamarru village,

Karamchedu group of Temples
Office, Karamchedu Mandal, Prakasam District, rep. by

Executive Authority/Person in Management.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly in the nature of writ of mandamus declaring that the action of Respondent No.3 in proposing to conduct auction of lease hold rights of Ac. 4.63 cents of wet land in Sy.No. 329/3 in Kunkalamarru village, Karamchedu Mandal, Prakasam District held by

the Petitioner as tenants is arbitrary, illegal, capricious and violative of principles of natural justice apart from the provisions of Act 30 of 1987 and consequently direct the respondents herein not to dispossess the petitioners from the above said lands till the appeal filed by the Petitioner before the 1st Respondent is disposed of on merits and pass such other order or orders as this Hon'ble Court may deems fit in the circumstances of the case and in the interest of justice.

Counsel for the Petitioner:SMT.V.DYUMANI

Counsel for the Respondents1 and2: GP FOR Endowments

The Court made the following:

ORDER:

The petitioner assails the action proposed by the third respondent in auction of the leasehold rights of Acs. 4.63 cents of wet land in Survey No.329/3 in Kunkalamarru Village, Karamchedu Mandal, Prakasham District, which was being cultivated by the petitioner as a tenant.

2. Admittedly, the land is an agricultural wet land belonging to the third respondent-Devasthanam. The petitioner was a cultivating tenant for a long time. In view of the provisions of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short the Act) the petitioner's leasehold rights stood determined by a legislative declaration under

Section 82(1). Section 82(2) of the Act, provides certain benefits for certain classes of cultivating tenants of the endowment lands, who are landless poor persons. As per the explanation to Section 82(2) of the Act a landless poor person means a person whose total extent of land held either as an owner or as a cultivating tenant or both does not exceed two and half acres of wet and or five acres of dry land.

The petitioner was admittedly cultivating an extent of Acs.4.63 cents of wet land, claiming to own no other land, submitted an application to the second respondent for a declaration as a landless poor person. By an order, dated 08.09.2003, the respondent recorded that the petitioner was holding an extent of Acs.2.13 cents of wet land on his own and was cultivating Acs.4.63 cents of wet land belonging to the third respondent-Devesthanam i.e. total extent of Acs.7.76 cents of wet land beyond the prescribed limits under Section 82 of the Act and was therefore, ineligible to the benefits available to a landless poor person.

According to the petitioner, he does not own any land on his own, and the fact recorded by the second respondent in his order, dated 08.09.2003, as to the petitioner owning an extent of Acs.2.13 cents of wet land is a factual error. Projecting this contention the petitioner preferred an appeal to the first respondent against the order of the second respondent. It appears that the first respondent dismissed the appeal of the petitioner on 05.02.2005, for default. The petitioner alleges that he is not aware of his appeal having been dismissed by the first respondent for default and he has not received a copy of such order from the first respondent. It is also pleaded in the Writ petition that the petitioner went to the first respondent and sought a copy of the order which was not supplied by the first respondent and that the petitioner has also filed an application on 06.06.2005 before the first respondent for setting aside the order dismissing his appeal for default.

3. It is alleged by the petitioner that the third respondent is proceeding to conduct auction of the leasehold rights of the lands and has fixed a date, 11.06.2005 for conduct of the auction. In the circumstances, the Writ petition is filed assailing the conduct of auction for the third respondent temple lands in an

extent of Acs.4.63 cents of wet land.

4. Heard the learned counsel for both sides.

5. As the petitioner is admittedly cultivating Acs.4.63 cents of wet land belonging to the third respondent temple, *prima facie*, he is not entitled to be considered as a landless poor person within the meaning of Section 82 of the Act. Consequently, he is not entitled to the benefits under the Act, which enure in favour of a landless poor person. His earlier leasehold rights stood determined under Section 82(1) of the Act.

6. On the above factual matrix, the conduct of the auction by the third respondent for the leasehold rights of the third respondent's temple lands does not suffer from any infirmity, warranting interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The only right that the petitioner has is to participate in the auction and offer a competitive lease amount and succeed in such competitive environment. The petitioner not being a landless poor person is not entitled to any privilege other than the above, under the provisions of the Act.

7. On the above analysis, this Court finds no merit in the writ petition and no relief can be granted.

8. The writ petition is accordingly dismissed. The petitioner is at liberty to participate in the auction if otherwise eligible.

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09-06-2005

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To

1. The Regional Joint Commissioner, A.P. Hindu Charitable

& Religious Endowment Department,
Tirupathi, Chittoor District.

2 The Assistant Commissioner of Endowments,

Endowments Department, Ongole, Prakasam District.

3. The Executive Authority/Person in Management.

Sri Chennakesava Swamy Temple, Kunkalamarru village,

Karamchedu group of Temples
Office, Karamchedu Mandal, Prakasam District,

4. 2 CCs to G.P. forEndowments, High Court Buildings,

Hyderabad (OUT)

5. 2 CD copies